IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION

No. 4:15-CV-61-FL

ELDER DEFORRORRORA LOCUST,)	
Plaintiff,)	
v.)	ORDER
ABC BOARD, et al.,)	
Defendants.)	

On April 15, 2015, Elder Deforrorrora Locust ("plaintiff"), appearing pro se, filed a complaint in this action [D.E. 1, 9]. On April 27, 2015, the clerk issued summons as to defendants ABC Board and Bill Johnson [D.E. 4, 5]. On May 26, 2015, plaintiff filed a motion for entry of default against Olds [D.E. 13]. According to plaintiff, default is proper because Olds refused to answer the complaint, and the deadline to respond ran on May 22, 2015.

Rule 55(a) of the Federal Rules of Civil Procedure provides for entry of default against a party who "has failed to plead or otherwise defend." Fed. R. Civ. P. 55(a). Before the clerk may enter default, plaintiff must establish that defendant Olds was properly served with summons and the complaint. See Fed. R. Civ. P. 4. Plaintiff has not submitted a summons, filed a return of service, or shown by affidavit or otherwise that Olds was served and has failed to answer. Therefore, plaintiff's motion for entry of default against defendant Olds is denied [D.E. 13].

To the extent, if any, plaintiff seeks default against defendants ABC Board, Chief Bill Johnson, and City of Kinston Public Safety, his request is also denied [D.E. 13]. Again, plaintiff did not file a return of service or show by affidavit or otherwise that these defendants were served with

summons and complaint. Moreover, on May 27, 2015, defendant ABC Board filed a motion to dismiss [D.E. 13], and defendants Chief Bill Johnson and City of Kinston Public Safety received an extension of time until June 29, 2015, to answer or respond to the complaint [D.E. 25]. Thus, plaintiff failed to show that entry of default under Rule 55(a) of the Federal Rules of Civil Procedure against defendants ABC Board, Chief Bill Johnson, and City of Kinston Public Safety is proper.

In brief, plaintiff's motion for entry of default is denied as to defendants Olds, ABC Board, Chief Bill Johnson, and City of Kinston Public Safety [D.E. 13].

SO ORDERED. This 10th day of June 2015.

Julie Richards Johnston, Clerk of Court